TURKEY

TRADE SUMMARY

In 1999, the U.S. trade surplus with Turkey was $570 million, down from $967 million in 1998. U.S. merchandise exports to Turkey were $3.2 billion, a decrease of $315 million from the level of exports in 1998. Turkey was the United States' 31st largest export market in 1999. U.S. merchandise imports from Turkey were $2.6 billion, up $82 million from 1998. The stock of U.S. foreign direct investment in Turkey was $1.1 billion in 1998. Such investment was concentrated primarily in the manufacturing, petroleum, power and financial sectors.

IMPORT POLICIES

Tariffs and Quantitative Restrictions

The introduction of Turkey's customs union with the European Union in 1996 resulted in substantial revisions to Turkey's tariff regime. Turkey now applies the EU's common external customs tariff for third country (including U.S.) imports and imposes no duty on non-agricultural items from EU and European Free Trade Association (EFTA) countries. The weighted rate of protection for industrial products from the United States and other third countries dropped from 11 percent to 6 percent with the introduction of the customs union. Higher transitional protection for imports of sensitive goods (including automobiles, leather and ceramics) from third countries are being phased out over a five-year period. The weighted rate is set to fall to four percent by the end of 2000. Further reductions in the general tariff level are not likely to affect U.S. exports significantly.

The customs union has helped the EU consolidate its trade relations with Turkey. The EU decision in December 1999 to confirm Turkey as an EU candidate will serve to further strengthen the EU's position as Turkey's primary trading partner. In particular, the harmonization of regulations will simplify import procedures for EU goods, but also should improve the general import climate.

Turkey maintains high tariff protection on many agricultural and food products. Because of generous subsidies and high support prices far above world market levels, Turkey recently raised tariffs on grains and oilseeds to high levels, though within their bindings, to discourage imports and to encourage consumption of local crops. Since 1996, Turkey has raised its applied tariffs on milling wheat (3 to 55 percent), corn (3 to 60 percent), fruit (45 to 120 percent), sorghum (3 to 60 percent), barley (3 to 85 percent), and sunflower seed (3 to 29 percent). These tariffs have adversely affected U.S. exports to Turkey. Improved market access for U.S. bulk commodities would help the growth and modernization of the Turkish livestock and poultry sectors and would reduce inflationary pressures in Turkey's economy. High costs of feed inputs (grains, soymeal) have created inflated prices for beef and poultry.

The Turkish government charges high import duties, as well as additional domestic taxes and charges, on imported alcoholic beverages. The import process for these products is cumbersome, because letters of credit for imports must be through TEKEL, the alcoholic beverage monopoly. Market opportunities for U.S. wine and beer exports are limited.

Although the government officially lifted its total ban on livestock imports in late 1999, the importation of only a limited number of breeder cattle will be allowed, and the importation of meat (with the exception of EU quota meat) is still banned.

U.S. industries estimate that eliminating high tariffs and non-tariff barriers to agricultural trade could open up markets in Turkey worth between $300 and $500 million annually for exporters of U.S. agricultural products.

Import Licenses

While import licenses generally are not required for industrial products, products which need after-sales service (e.g. office equipment, white goods, electronic and electrical consumer products, ADP equipment, diesel generators) and medical and agricultural commodities require licenses. The Ministry of Agriculture recently refused or delayed issuance of permits for imports of grains and fruits, on the basis that adequate supplies are available locally or from countries with bilateral quotas. In addition, the government requires laboratory tests and certification that quality standards are met for importation of foods and human and veterinary drugs. While licenses are generally issued in one to two weeks, occasional delays can cause problems for U.S. exporters.

GOVERNMENT PROCUREMENT

Turkey is not a signatory of the WTO Government Procurement Agreement. It nominally follows competitive bidding procedures for tenders. U.S. companies sometimes become frustrated over lengthy and often complicated bidding and negotiating processes. Some tenders, especially large projects involving co-production, are frequently opened, closed, revised, and opened again. There often are numerous requests for "best offers;" in some cases, years have passed without the selection of a contractor.

Military procurement generally requires an offset provision in tender specifications when the estimated tender value exceeds one million dollars. Direct offsets, i.e. exports from Turkey of products, systems or parts directly or indirectly related to the project, are preferred. However, indirect offsets – new foreign capital investments and product exports in fields outside the project – have been accepted. Recently the procurement arm of the Ministry of National Defense made the continuation of a defense contract contingent upon the transfer of majority ownership in a joint venture from a U.S. firm to its Turkish partner. The U.S. company, with Embassy assistance, is vigorously contesting the matter.

The entry into force of a Bilateral Tax Treaty between the United States and Turkey in 1998 eliminated the application of a 15 percent withholding tax on U.S. bidders for Turkish government contracts.

EXPORT SUBSIDIES

Turkey employs a number of incentives to promote exports, although programs have been scaled back in recent years to comply with EU directives and WTO standards. The government continues to provide cash subsidies to a limited number of agricultural exporters (wheat, tobacco, fruits, sugar, and others). Domestic producers and exporters can take advantage of a number of government programs designed to support production for domestic and export markets, including cash and credit assistance for research and development projects, environmental projects, participation in trade fairs, market research and establishment of branch offices overseas. The Turkish Eximbank provides exporters with credits, guarantees, and insurance programs for non-agricultural products. Certain other tax credits also are available to exporters.

The government of Turkey continues to subsidize the export of wheat and barley by purchasing these products from Turkish farmers at prices above market rates, and then exporting a signficant portion of these stocks at lower international prices. Although Turkey remained within its WTO export subsidy commitments for grain in 1999, if Turkey exports a similar volume of wheat or barley in 2000 it will exceed its WTO export subsidy limits for these products.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

In 1995, as part of Turkey's harmonization with the EU in advance of the customs union, the Turkish parliament approved new patent, trademark and copyright laws. Turkey also acceded to a number of multilateral intellectual property rights (IPR) conventions. Although the new laws provide an improved legal framework for protecting IPR, they require further amendments to be consistent with the standards contained in the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). The government has declared that it intends to have a TRIPS-compatible IPR regime in place in 2000 and has volunteered for a WTO TRIPS review in the second half of 2000. Draft amendments to the Copyright Law were under consideration by parliament as of January 2000.

Turkey has been on the Special 301 Priority Watch List since 1992. In the 1997 Special 301 review, the U.S. Trade Representative provided Turkey with a set of benchmarks necessary in order to improve its status in the Special 301 process. In April 1998, the U.S. announced that it would not consider requests to augment Turkey's benefits under the U.S. Generalized System of Preferences until further progress is made on the benchmarks. Out of the six benchmarks, Turkey has made significant progress on four and is in the process of addressing the problems identified in the fifth and sixth benchmarks. Benchmark items include: equalize taxes on domestic films; legalize government software; public anti-piracy campaign; amend copyright and patent laws to provide for retroactive copyright protection and protection of proprietary data and to clarify that importation constitutes working of a patent; amend the Cinema, Video and Music Works Law to include higher penalties; and sustain enforcement efforts.

Taxes on the showing of foreign and domestic films were equalized in 1998. The Prime Minister issued a circular in 1998 directing all government agencies to legalize the software used in their offices. A public anti-piracy campaign was begun in 1998 and the government has made efforts to educate businesses, consumers, judges and prosecutors regarding the implications of its laws.

Turkey extended patent protection to pharmaceutical products in January 1999 in accordance with its customs union commitments to the EU. Turkey is currently in the process of amending its copyright legislation. In August 1999, fines were increased by 800 percent and indexed to inflation. Turkish police and prosecutors are working closely with trademark, patent and copyright holders to conduct raids against pirates within Turkey. Although many seizures have been made (including by Turkish Customs officials at ports of entry), and several cases have been brought to conclusion successfully, U.S. industry remains concerned that fines and penalties levied by the courts would not serve as a significant deterrent.

SERVICES BARRIERS

Accounting

Foreigners are not permitted to acquire, own an interest in, form a partnership with, merge with, establish, or affiliate with Turkish accounting firms. Owners and employees of accounting firms established in Turkey cannot acquire, own an interest in, form a partnership with, merge with, establish, or affiliate with foreign firms.

Names of foreign or affiliated firms cannot be used in the legal name of an auditing partnership or corporation, and cannot be used on letterheads and business cards.

Regulations prohibit the formation of partnerships among partners of different levels and titles. Also, qualified non-Turkish auditors are not permitted to practice on an equal basis as a qualified Turkish auditor because of nonrecognition of foreign-country professional certification and foreign education, and because of nationality requirements.

Legal Services

The practice of Turkish law and membership of the bar is restricted to Turkish nationals. A person cannot provide legal advice on foreign or international law without being licensed in the practice of Turkish law. Turkish lawyers are not permitted to form partnerships with foreign lawyers. However, some foreign law firms have established liaison or branch offices in Turkey, staffed by Turkish lawyers.

Architecture and Engineering

The Turkish government has discretionary authority to grant a percentage preference to domestic firms on public construction projects. Licensing of architects and engineers is limited to Turkish nationals. However, some large infrastructure projects including dams, power plants, highways, and railways are tendered for international firms. The foreign firms usually have local partners. All projects, with foreign currency or foreign credit guarantees allocated by the Turkish Treasury and State Planning Organization, are open to foreign engineering and construction companies.

Telecommunication Services

State-Owned Turk Telekom currently provides basic telecommunications services, with the exception of two GSM licenses, operated by Turkcell and Telsim, which provide cellular telephone service. The Turkish government is expected to make three further GSM licenses available in 2000, one to Turk Telekom and two to private consortia. The Turkish government plans to sell 20 percent of Turk Telekom's shares to a strategic investor in 2000 as part of its privatization drive. A further five percent is slated to be sold to current employees, 10 percent to be transferred to the Postal Service, and 14 percent to be placed on international and domestic stock markets.

In the WTO negotiations on Basic Telecommunications Services, Turkey made commitments to provide market access and national treatment for all services at the end of 2005 and permitted value-added telecommunications services to be licensed to the private sector with a 49 percent limit on foreign equity investment. In the interim, Turkey committed to provide national treatment for mobile, paging and private data networks. Turkish officials have prepared a draft telecommunications law, which has been approved by two parliamentary committees and is scheduled to be approved by the parliament in January 2000 as a condition under Turkey's IMF stand-by agreement. This law, as currently drafted, will accelerate the opening of the market for basic services to January 1, 2004. Turkey agreed in its WTO commitments to establish an independent regulatory authority and to make licensing criteria publicly available. The draft law includes these commitments.

INVESTMENT BARRIERS

The U.S.-Turkish Bilateral Investment Treaty (BIT) entered into force in May 1990. Turkey has a liberal investment regime in which foreign investments receive national treatment. There is a screening process for foreign investments, which the government applies on an MFN basis; once approved, firms with foreign capital are treated as local companies. Almost all areas open to the Turkish private sector are fully open to foreign participation, but establishments in the financial and petroleum sectors require special permission. The equity participation ratio of foreign shareholders is restricted to 20 percent in broadcasting and 49 percent in aviation, telecommunications services, and maritime transportation.

Although Turkey has a BIT with the United States, and despite its membership in international dispute settlement bodies, Turkish courts have not recognized investors' rights to third party arbitration under any contract defined as a concession. This has been particularly problematic in the energy, telecommunications and transportation sectors. Constitutional amendments, accepted by the Parliament in 1999, which grant access to international arbitration to foreign investors, should correct this problem. Investors also are concerned about the lack of clarity in the government approval process, lack of lender's step-in rights, the lack of lender rights to termination, and disparities in lender and Turkish Government access to force majeure.

Resolution of concerns in this area offers the single best prospect to increase U.S. trade and investment levels, dwarfing other sectors. The Turkish Government estimates that investments of $4.5 billion will be necessary each year for the next decade just to meet expected demand for power generation. U.S. Government officials work closely with concerned U.S. companies in order to resolve barriers to investment in this sector.

ANTI-COMPETITIVE PRACTICES

As part of its customs union agreement with the EU, Turkey has pledged to adopt EU standards concerning competition and consumer protection. In 1997, a government "Competition Board" commenced operations, putting into force a 1994 competition law. Government monopolies in a number of areas, particularly alcohol and telecommunications services, have been scaled back in recent years, but remain a barrier to certain U.S. products and services.

OTHER BARRIERS

U.S. companies often state that a significant barrier to increased trade and investment is the comparative lack of political stability in Turkey resulting in a higher than usual level of uncertainty with regard to economic policies. However, the coalition government that came to power in June 1999 has demonstrated its leadership by passing necessary constitutional amendments and structural reforms and by finalizing an IMF stand-by agreement to assist in its ambitious disinflation program. The EU's decision to recognize Turkey as a formal candidate for membership should serve as an impetus for continued economic reform and stability. In September 1999, the U.S. Trade Representative, Ambassador Charlene Barshefsky, and Minister of Industry and Trade Ahmet Kenan Tanrikulu, signed a Trade and Investment Framework Agreement (TIFA) to serve as a forum for consultations on trade matters. The bilateral TIFA Council will have its first meeting in Washington.